

SECTION 59 PLANNING REPORT

Planning proposal details:

PP_2015_STRAT_002_00

Planning proposal summary:

Planning proposal to rezone land at 38-50 Weeroona Road, Strathfield, from SP2 Electricity Supply to IN1 General Industrial, and amend the planning controls.

Date of Gateway determination:

8 July 2015

1.0 SUMMARY

The subject site of the Planning Proposal at 38-50 Weeroona Road (being Lot 1 DP 803688) is currently owned by Flemington Properties Pty Ltd.

During the preparation of the draft Strathfield Local Environmental Plan (LEP) 2011, Ausgrid lodged a submission in 2010 requesting Council to rezone a number of Ausgrid owned sites, including the subject site, from Industrial (4) to SP2 Electricity Supply.

The Strathfield LEP 2012 subsequently made this change in zoning over the site listed. In mid 2013, the Flemington Properties Pty Ltd met with Council officers to advise that they held ownership over 38-50 Weeroona Road and to discuss rectifying the zoning anomaly by proposing an IN1 General Industrial zoning, consistent with the historical industrial zoning.

Ausgrid also wrote to Council in March 2013 to verify that its 2010 submission incorrectly identified the subject land as owned by Ausgrid. Therefore, no objection was made to reverting the zoning back to industrial.

The Department of Planning & Environment (DPE) further advised that a new Planning Proposal would be required should the landowner seek to change the zoning.

On 30 December 2014, the landowner submitted the Planning Proposal and associated documents to Council with a request to:

- Amend the zoning of the site from SP2 Electricity Supply to IN1 General Industrial consistent with adjoining Weeroona Road industrial precinct;
- Amend the building height control to 12m consistent with the standard height control for IN1 zoned sites;
- Amend the floor space ratio control to 1:1 consistent with the standard FSR control for IN1 zoned sites; and
- Amend the minimum lot size control to 20,000sqm consistent with the standard minimum lots size control for IN1 zoned site.

The Planning Proposal was publicly exhibited from 19 April to 18 May 2016. Two submissions were received including one objection. Please see section 3.0 for further details.

No amendment/s were made to the Planning Proposal as a consequence of public exhibition and the Planning Proposal was endorsed by Council on 19 July 2016.

2.0 GATEWAY DETERMINATION

A Gateway Determination for the Planning Proposal was issued by the DPE on 8 July 2015 (see Appendix 1).

The Determination recommended the Planning Proposal proceed subject to a number of conditions. These included the completion timeframe of 18 months from the week following the date of 8 July 2015.

In response to the Gateway Determination conditions, the following key events took place:

- **August 2015:** Correspondence was received from Office of Environment & Heritage (OEH), which noted that the site may contain around 1.1ha of Cooks River Castlereagh Ironbark Forest which is listed as an Endangered Ecological Community under the NSW Threatened Species Conservation Act 1995 (TSC Act) and a Critically Endangered Community under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). Additionally, OEH also identified other vulnerable, threatened, and endangered species that may be present on the site. OEH indicated that should the ecological study being undertaken by the proponent confirm the existence of threatened communities/species, that consideration be given to applying additional planning controls.
- **August 2015 - April 2016:** Numerous attempts have been made by Council Officers to seek comment from Commonwealth Department of Environment (DoE) in response to the Gateway Determination, however no response was received.
- **November 2015:** The proponent advised Council that a Biodiversity Study has been completed with the consultant waiting on feedback from DoE to allow finalisation of the report. Council advised the proponent to continue updating the proposal with feedback from DoE when it becomes available.
- **March 2016:** The proponent submitted the updated Planning Proposal, including consideration of the OEH submission and findings from the Biodiversity Study.
- **March 2016:** Preliminary assessment of the updated planning proposal completed by Council Officers. The proponent was requested to provide an amended biodiversity study to address minor inconsistencies found throughout the report.
- **6 April 2016:** Updated biodiversity study and planning proposal submitted to Council for final assessment.
- **11 April 2016:** There being no response from DoE, Council completed its final review of the planning proposal. The review concluded that the planning proposal has satisfied the requirements under Gateway Determination and

therefore was ready for public exhibition. The proponent was requested to prepare documentation for public exhibition.

- **19 April – 18 May 2016:** The Planning Proposal and associated attachments were placed on public exhibition.

The Gateway Determination was not subject to a review request and the conditions of the Gateway Determination have been fulfilled.

3.0 COMMUNITY CONSULTATION

As indicated above, this Planning Proposal was publicly exhibited from 19 April to 18 May 2016.

At the end of the Public Exhibition process, a total of two (2) written submissions were received in relation to this Planning Proposal. These submissions were also forwarded to the proponent for further consideration and to address in detail.

Details of issues raised during exhibition, proponent's response to these issues and Council's assessment comments are outlined in Council Report dated 19 July 2016 (Appendix 2).

No amendment/s to the Planning Proposal were made as a consequence of the community consultation.

The community consultation has been undertaken in accordance with the Gateway Determination requirement.

4.0 VIEWS OF PUBLIC AUTHORITIES

Prior to public exhibition, Council correspondence dated 16 July 2015 was sent to OEH providing opportunity to comment on the Planning Proposal prior to public exhibition. As outlined in section 2.0 Gateway Determination, Council has made a number of attempts since August 2015 to seek comment from DoE in response to the Gateway Determination, however no response was received.

During the Public Exhibition period, an additional notification letter was provided to OEH advising of further opportunities to comment on the Planning Proposal.

OEH responded to the revised Planning Proposal and no objection was made subject to some changes to the Biodiversity Study. In particular, OEH recommended that further work was required regarding the likely presence of the Green and Golden Bell Frog and Tadgell's Bluebell, which includes further flora studies by a consultant experienced in the species and at an appropriate time of year.

The proponent concurred with these comments and the Biodiversity Study was updated accordingly (see Appendix 2). On 26 September 2016, Council submitted an initial Section 59 report and other supporting information with a request to notify this LEP amendment.

DPE has since advised that the biodiversity issues remained unresolved under the existing format of the submitted LEP amendment request.

In an effort to progress the Planning Proposal without unnecessary delay, DPE sought legal advice and required a site specific model biodiversity clause be inserted in response to OEH submission.

After consulting with its internal legal section, Council concurred with DPE's legal advice. In accordance with Section 58 of the EP&A Act, Council, as the relevant planning authority, has the power to vary the proposal as a consequence of its consideration of any submission.

Council subsequently requested Parliamentary Counsel to prepare a revised Opinion Version of Strathfield LEP 2012 Amendment No.8. This Section 59 Report was updated accordingly.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

The Ministerial s117 Directions relevant to this Planning Proposal are outlined and addressed below:

1. Employment and Resources

No.	Title	Consistency with Planning Proposal
1.1	Business and Industrial Zones	Consistent. This Planning Proposal aims to return the land to an industrial zone. As discussed in the body of the Planning Proposal, the land was erroneously rezoned from Industrial 4 under Strathfield's Planning Scheme Ordinance 1969 to Special Uses 2 (Electricity Distribution) under Strathfield Council's new LEP 2012. The site is well suited to an industrial zone, and the Planning Proposal is therefore in accordance with all requirements of this S.117 Direction.

2. Environment and Heritage

No.	Title	Consistency with Planning Proposal
2.1	Environmental Protection Zone	Consistent. The land is not identified as an environmentally sensitive area. The proponent has prepared a Biodiversity Study to map the possible presence of vulnerable species and critically endangered ecological communities on the site and provides possible mitigation measures in response to the Gateway Determination. This can be considered further in a future Development Application.

3. Housing, Infrastructure and Urban Development

No.	Title	Consistency with Planning Proposal
3.4	Integrating Land Use and Transport	Consistent. The subject land is located in the Weeroona Road industrial precinct which is well serviced by regional arterial roads (e.g. Centenary Drive, Hume Highway and M4 motorway). Should the industrial land use be activated in the longer term, it would assist in

		providing for the efficient movement of freight.
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4. Hazard and Risk

No.	Title	Consistency with Planning Proposal
4.1	Acid Sulphate Soil	Inconsistent. The land is identified as Class 5 on Strathfield Local Environmental Plan 2012 (SLEP) Acid Sulphate Soil map. However, the letter from DP&E dated 8 July 2015 indicates that the inconsistency is of minor significance and justifiable due to the further planning protection provided by Clause 6.1 of SLEP 2012.

6. Local Plan Making

No.	Title	Consistency with Planning Proposal
6.2	Reserving Land for Public Purposes	Inconsistent. The land is currently zoned SP2 Electricity Supply (public purpose land). However Ausgrid holds a long term lease until 2065. Additionally Ausgrid indicated in its submission that no objection was made to the proposed rezoning. The letter from DP&E dated 8 July 2015 also agrees that the inconsistency is considered minor and justifiable.

6.0 PARLIAMENTARY COUNSEL OPINION

Council sought the initial opinion from the Parliamentary Counsel on 4 August 2016. An opinion was issued by the Parliamentary Counsel on 12 August 2016.

In light of DPE's instruction as outlined in Section 4.0, a revised opinion was sought on 20 December 2016. An opinion was issued by the Parliamentary Counsel on 22 December 2016.

7.0 OTHER RELEVANT MATTERS

Council has not received any representations on the planning proposal from State or Federal members of Parliament. Council has not met with the Minister in relation to the planning proposal either.

In regards to the potential biodiversity impact, a key component of native vegetation management is compliance with the *Native Vegetation Act 2003*. Council can promote compliance by identifying and reporting possible environmental problems and illegal clearing.

Council is intending to engage with the owner with the aim of developing a conservation partnership to promote vegetation management and surveying according to the AES biodiversity survey submission. Council will actively monitor the site to assess and review the effectiveness of vegetation management and compliance under *Native Vegetation Act 2003*, *Threatened Species Conservation Act 1995* and the *Noxious Weeds Act 1993*.

8.0 MAPPING

Relevant LEP mapping amendment and GIS data was finalized by Council's GIS officer in consultation with the GIS unit of Department of Planning & Environment.

Council was issued with the Mapping Cover Sheet (MCS) and amended Zoning, Height of Buildings, Floor Space Ratio and Minimum Lot Size Map (Sheet No 2) on 19 September 2016.

To ensure clarity, the MCS was re-signed by Council's General Manager so that both the revised opinion version and the MCS have the same date of approval.

9.0 RECOMMENDATION

This Planning Proposal was reported and endorsed at the Council Meeting of 19 July 2016 (see Appendix 2 and 3). It is therefore recommended that the Strathfield Local Environmental Plan (Amendment No 8) to rezone the land at Lot 1 DP 803688 (38-50 Weeroona Road, Strathfield) be made.

APPENDIX:

1. Gateway Determination dated 8 July 2015
2. Council Report dated 19 July 2016
3. Council resolution dated 19 July 2016

APPENDIX 1



Mr David Backhouse
General Manager
Strathfield Municipal Council
PO Box 120
Strathfield NSW 2135

15/10192

Dear Mr Backhouse

Planning proposal to amend Strathfield Local Environmental Plan 2013

I am writing in response to Council's 26 May 2015 letter requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) for a planning proposal to rezone land at 38-50 Weeroona Rd, Strathfield, from SP2 Electricity Supply to IN1 General Industrial, and amend the planning controls under Strathfield Local Environmental Plan 2013 (the LEP).

As delegate of the Minister for Planning, I have determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Due to the possible presence of vulnerable species and critically endangered ecological communities on the site, before public exhibition Council is to:

- consult with the Commonwealth Department of the Environment and the Office of Environment and Heritage
- undertake a study to identify and map the presence of any vulnerable species and critically endangered ecological communities on the site, consider the impact of the proposed rezoning on these species/communities, and provide possible mitigation measures, and
- address the potential impacts of the proposed rezoning on any vulnerable and protected species, and critically endangered ecological communities.

I have also agreed the planning proposal's inconsistencies with s117 Directions 4.1 Acid Sulfate Soils and 6.2 Reserving Land for Public Purposes are of minor significance. No further approval is required in relation to these Directions.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet

these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

If you have any queries in regard to this matter, please contact Ms Helen Wilkins of the Metropolitan (CBD) branch on (02) 9228 6559.

Yours sincerely,



8.7.15

Tim Archer
A/Director, Metropolitan (CBD)
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

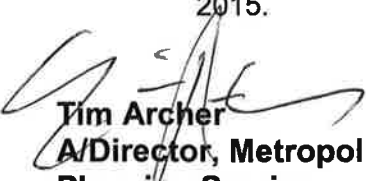
Planning proposal (Department Ref: PP_2015_STRAT_002_00): to amend Strathfield LEP 2012 to rezone land at 38-50 Weeroona Rd, Strathfield, from SP2 Electricity Supply to IN1 General Industrial, and amend the planning controls.

I, the A/Director, Metropolitan (CBD), at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) that an amendment to the Strathfield Local Environmental Plan 2012 to rezone land at 38-50 Weeroona Rd, Strathfield, from SP2 Electricity Supply to IN1 General Industrial, and amend the planning controls, should proceed subject to the following conditions:

1. Prior to exhibition, Council is to:
 - (a) consult with the Commonwealth Department of the Environment and the Office of Environment and Heritage, and update the planning proposal in line with the consultation;
 - (b) undertake a study to identify and map the presence of any vulnerable species and critically endangered ecological communities on the site, consider the impact of the proposed rezoning on these species/communities, and provide possible mitigation measures, and
 - (c) update the planning proposal to address potential impacts of the proposed rezoning on any vulnerable and protected species and critically endangered ecological communities identified on the site.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Environment 2013).
3. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

4. The timeframe for completing the Local Environmental Plan is to be **18 months** from the week following the date of the Gateway determination.

Dated 8th day of July 2015.


Tim Archer
A/Director, Metropolitan (CBD)
Planning Services

Delegate of the Minister for Planning



Planning & Environment

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Strathfield Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_STRAT_002_00	Planning proposal to rezone land at 38-50 Weeroona Rd, Strathfield from SP2 Electricity Supply to IN1 General Industrial, and amend the planning controls.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 8th July 2015

Tim Archer
A/Director, Metropolitan (CBD)
Planning Services

APPENDIX 2

Report by Frankie Liang, Strategic Planner

RECOMMENDATION

- 1. That Council endorse the Planning Proposal to rezone 38-50 Weeroona Road, Strathfield (Lot 1 DP 803688) from SP2 Electricity Supply to IN1 General Industrial.**
- 2. That Council exercise the delegation authorised by the Minister's delegate in the Gateway Determination to amend the Strathfield Local Environmental Plan 2012 in accordance with Section 59 of the Environmental Planning and Assessment Act 1979 (EP&A Act).**
- 3. That the proponent and objectors be notified accordingly.**

PURPOSE OF REPORT

Council, at its Planning Committee Meeting on 19 May 2015, resolved (Minute No. P32/15):

- "1. That Council support the Planning Proposal to rezone 38-50 Weeroona Road, Strathfield from SP2 Electricity Supply to IN1 General Industrial and the associated development standards.*
- 2. That Council forward the Planning Proposal to Department of Planning and Environment to commence the LEP plan making process under s56 of the Environmental Planning and Assessment Act 1979 (EP&A Act).*
- 3. That Council request the Department of Planning and Environment to issue written authorisation for Council to exercise delegation in accordance with s23 of the EP&A Act 1979 to prepare and make the LEP following Gateway determination (and public exhibition)."*

This report has been prepared to:

1. Inform Council of the following:
 - a. Amendments that were made to the Planning Proposal in response to the conditions of the Gateway Determination issued by the Department of Planning & Environment (DP&E) on 8 July 2015; and
 - b. The outcome of the public exhibition period.
2. Seek Council's endorsement to proceed with the Planning Proposal and to finalise the amendment to the LEP.

REPORT

Planning Proposal Summary

The Planning Proposal seeks to amend the following planning controls for the site:

- a) Rezone the site from SP2 Electricity Supply to IN1 General Industrial;
- b) Amend the building height to 12m;

- c) Amend the floor space ratio to 1:1; and
- d) Amend the minimum lot size to 20,000m².

This Planning Proposal is intended to rectify a zoning anomaly and to return the subject land to the equivalent industrial zoning consistent with the site's historical Industrial (4) zoning under the previous environmental planning instrument, the Strathfield Planning Scheme Ordinance 1969.

Gateway Determination

On 26 May 2015, Council forwarded the Planning Proposal to DP&E requesting a Gateway Determination.

On 8 July 2015, DP&E notified Council that the planning proposal should proceed, subject to the following conditions:

1. *Prior to exhibition, Council is to:*
 - a. *Consult with the Commonwealth Department of the Environment and the Office of Environment and Heritage, and update the planning proposal in line with the consultation;*
 - b. *Undertake a study to identify and map the presence of any vulnerable species and critically endangered ecological communities on the site, consider the impact of the proposed rezoning on these species/communities, and provide possible mitigation measures; and*
 - c. *Update the planning proposal to address potential impacts of the proposed rezoning on any vulnerable and protected species and critically endangered ecological communities identified on the site.*
2. *Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:*
 - a. *The planning proposal must be made publicly available for a minimum of **28 days**; and*
 - b. *The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that be made publicly available along with planning proposals as identified in section 5.5.2 of 'A guide to Preparing LEPs (Department of Planning and Environment 2013)'.*
3. *A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
4. *The timeframe for completing the Local Environmental Plan is to be **18 months** from the week following the date of the Gateway determination.*

In response to the Gateway Determination being issued, the following timeline of key events took place:

- **July 2015:** The Planning Proposal and Gateway Determination were forwarded to the NSW Office of Environment & Heritage (OEH) for their consideration. The proponent was also forwarded the Gateway Determination and requested to undertake the biodiversity study as required by the Gateway Determination.
- **July 2015:** Council's officer contacted the Commonwealth Department of Environment (DoE) to determine a process for consulting between the agencies. An extract of the Gateway Determination and background information was emailed to DoE to assist their assessment of the potential impacts of the rezoning in relation to the relevant matters protected under the *Environment Protection and Biodiversity Conservation Act 1999* for their review.
- **August 2015 - April 2016:** Numerous attempts has been made by Council Officers to seek comment from DoE in response to the Gateway Determination, however no response was received.
- **August 2015:** Correspondence was received from OEH, which noted that the site may contain around 1.1ha of Cooks River Castlereagh Ironbark Forest which is listed as an Endangered Ecological Community under the *NSW Threatened Species Conservation Act 1995* (TSC Act) and a Critically Endangered Community under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Additionally, OEH also identified other vulnerable, threatened, and endangered species that may be present on the site. OEH indicated that should the ecological study being undertaken by the proponent confirm the existence of threatened communities/species, that consideration be given to applying additional planning controls.
- **November 2015:** The proponent advised Council that a Biodiversity Study has been completed, and the consultant is now waiting on feedback from DoE to allow for finalisation of the report. Council advised the proponent to continue updating the proposal and feedback from DoE when it becomes available.
- **March 2016:** The proponent finalised the updated Planning Proposal, taking into consideration the OEH submission and findings from the Biodiversity Study.
- **March 2016:** Preliminary assessment of the updated planning proposal completed by Council Officers. The proponent was requested to provide an amended biodiversity study that addresses minor inconsistencies found throughout the report.
- **6 April 2016:** Updated biodiversity study and planning proposal submitted to Council for final assessment.
- **11 April 2016:** There being no response from DoE, Council completed its final review of the planning proposal. The review concluded that the planning proposal has satisfied the requirements under Gateway Determination and therefore was ready for public exhibition. The proponent was requested to prepare documentation for public exhibition.

Public exhibition

The amended planning proposal was publicly exhibited from Tuesday 19 April 2016 to Tuesday 18 May 2016. A public notice was placed in the Tuesday 19 April 2016 edition of the *Inner West Courier*, and physical copies and information on how to make a submission were also made available at Council's Customer Service Centre, Strathfield Main Library and High Street Community Library. The Planning Proposal and associated attachments were also available to view on Council's website.

During the public exhibition period, two (2) written submissions were received. The submission issues and the proponent's responses are summarised in the below table:

No.	Submission issues	Proponent's Response
1	There may be opportunities for maintaining and improving habitat on site in accordance with OEH Best Practice Guidelines.	The proponent concurs with these comments and the Biodiversity Study has been updated.
2	Further surveys should be undertaken for Tadgell's Bluebell before changes are made to the mowing and slashing regime.	The proponent concurs with these comments and the Biodiversity Study has been updated.
3	The subject site is located within Weeroona Road remnant (containing Castlereagh Ironbark Forest). The biodiversity studies have highlighted the importance of protecting and restoring this remnant bushland.	The submission generally relates to the larger Weeroona Road remnant bushland, not specific to the subject site. The subject site only includes about 10% of this remnant bushland and is less wooded than the remainder. The area of better habitat for small native birds is outside of the site.
4	Undertake a systematic survey of fauna at the site.	Further surveys are not considered necessary. Ameliorative strategies in the Biodiversity Study could be extended to protect the habitat of locally significant species.
5	Review all previous biodiversity survey work undertaken at and near the site.	The submission purports to rely on a working draft Fauna Study report which has not yet been completed and published. The submission author has not been on the site, therefore the submission does not enable any new conclusions to be drawn about the presence or protection of endangered species on the site.
6	The application of an E2 Environmental Conservation or similar zone to the entire remnant is recommended.	Any proposal to redevelop the site would trigger assessments of the likely impacts on these biota under the Planning Act and

		Biodiversity Conservation Act (e.g. Species Impact Statement or Biobanking agreement).
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Council Officers have considered both the submission and proponent's response. It is suggested that the Planning Proposal should proceed to plan making at its current format. Further field survey at different seasons throughout the year is not considered necessary at this plan making stage.

The subject site is located within the Weeroona Road industrial precinct and the intent of this Planning Proposal is to rectify a zoning anomaly during the drafting of Strathfield LEP 2012 when Ausgrid inadvertently nominated SP2 Special Uses for this site.

Following the Gateway Determination, the supporting Biodiversity Study has been undertaken to identify and map the presence of any vulnerable species and critically endangered ecological communities on the site. The study also considers the impact of the proposed rezoning on these species/communities, and provides possible ameliorative strategies.

Furthermore, OEH does not raise objection to the Planning Proposal and the supporting Biodiversity Study in its exhibition submission subject to some minor changes which the proponent has agreed to. Commitment has been made by the proponent to take appropriate steps to protect the State and Commonwealth listed vulnerable and endangered species that have been identified in the Biodiversity Study as occurring or having habitat on the site.

Despite various attempts by Council to consult with DoE on the Planning Proposal, no response has been received to date. It is therefore considered that the DP&E's Gateway conditions have been fully satisfied.

Whilst the objector suggests the imposition of E2 Environmental Conservation zoning, this is not supported by a detailed biodiversity study and justification. It is the view of Council Officers that an E2 zone is not substantiated and would unnecessarily restrict the use of the site.

Conclusion

As the Gateway Determination conditions provided by DP&E have been fulfilled and the submission issues have been adequately addressed, it is recommended that Council endorse the Planning Proposal, and exercise its delegation from the DP&E to amend the Strathfield Local Environmental Plan 2012 in accordance with the Section 59 of the EP&A Act.

REFERRAL FROM OTHER DEPARTMENT

Referral has been made to Council's Sustainability section and Natural Resources team. Comments made by these Officers have been included in this assessment report.

FINANCIAL IMPLICATIONS

There are no financial implications.

ATTACHMENTS

1. Submissions

Report approved by:

Sophie Olsen	Silvio Falato
A/Manager Planning & Development	A/Director Infrastructure & Development

ATTACHMENT 1



**Office of
Environment
& Heritage**

DOC16/191910
PP/2015/02

The General Manager
Strathfield Council
PO Box 120
STRATHFIELD NSW 2135

Attention: Joshua Coy

Dear Mr Ball

Exhibition of Planning Proposal for 38-50 Weeroona Road, Strathfield

I refer to your letter received 20 April 2016 by the Office of Environment and Heritage (OEH) seeking comments pursuant to Section 56(2)(c) of the Environmental Planning and Assessment Act 1979 in relation to the Planning Proposal (PP) for 38-50 Weeroona Road, Strathfield.

OEH has reviewed the PP documentation on Council's website and provides comments at Attachment 1.

If you have any queries regarding this advice please contact Marnie Stewart, Senior Operations Officer on 9995 6868.

Yours sincerely

S. Harrison 05/05/16

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region

Contact officer: MARNIE STEWART
9995 6868

ATTACHMENT 1

OEH comments on Planning Proposal for 38-50 Weeroona Road, Strathfield

1. Background

OEH understands that the Planning Proposal (PP) intends to amend Strathfield Local Environmental Plan (SLEP) 2012 to rezone the site from SP2 Electricity Supply to IN1 General Industrial. OEH understands that the site was inadvertently zoned SP2 following the preparation of SLEP as a result of advice from Ausgrid that it owned the land, when in fact it is privately owned. However, OEH notes that Ausgrid holds a lease for the site until 2065.

OEH understands that the PP intends to amend the Height of Buildings, Floor Space Ratio and Lot Size maps. The Lot Size Map will be amended for the site to allow a minimum lot size of 20,000m², consistent with the adjoining industrial land located to the north of the site.

OEH was previously consulted and provided comments on 12 August 2015 relating to flora and fauna assessment requirements.

2. Biodiversity

OEH notes that a Biodiversity Study was prepared in October 2015 on behalf of the proponent by Aquila Ecological Surveys.

The study states that the site does not contain suitable habitat for the Green and Golden Bell Frog (*Litoria aurea*). However, OEH considers that the site may contain habitat, given that the species is normally found in a variety of habitats and given there are links along drainage lines between this site and other known sites in the Greenacre/Strathfield area. If the species did use the site, even just as a foraging and refuge site, there may be opportunities to maintain and improve habitat, through restricting the use of herbicides, and creating frog habitat as per the Best Practice Guidelines for Green and Golden Bell Frog habitat:

<http://www.environment.nsw.gov.au/resources/threatenedspecies/08510tsdsgreengoldbfbpg.pdf>

The Biodiversity Study states that *Wahlenbergia multicaulis* (Tadgell's Bluebell) was found on the site previously but not found during current surveys. Given it was last recorded on site in 2014, OEH supports the conclusion that the species is likely still extant. If it is in the grassland areas, then more frequent slashing as recommended in Section 4 may damage individuals. Instead, removing competing weeds and opening up the habitat, may be of benefit to the species. OEH recommends further flora surveys are conducted by a consultant experienced in the species and at an appropriate time of year (e.g. when it is known to be flowering at sites nearby), before changes are made to the mowing and slashing regime.

(END OF SUBMISSION)

Biodiversity conservation considerations relating to the proposed re-zoning of Lot 1 DP803688, 38-50 Weeroona Road, Strathfield

Background

This is a response to a proposal to re-zone land for general industrial use in the western part of Strathfield Council LGA (Sheridan Planning 2015). The subject site includes Ausgrid Substation and parts of remnant native shrubland to the north, east and south of this facility. This vegetation forms part of one of inner-western Sydney's last remaining bushland remnants – the Weeroona Road shrubland and woodland. Previous (InSight Ecology 2008, Ambrose Ecological Services 2009) and current (InSight Ecology 2016 in prep.) biodiversity studies have highlighted the importance of protecting and restoring this remnant in a landscape dominated by high density residential, commercial and industrial land uses.

Location of the Weeroona Road remnant

The Weeroona Road remnant extends from the western edge of a major rail and road corridor that includes Centenary Drive to the Chullora railway facility at Greenacre (Figure 1). It varies from 50-150 metres in width and is about 3.5 km in total length. Its total area is approximately 30 ha. The remnant is abutted by the rail and road corridor to its east, a small industrial complex to its north, Strathfield Golf Course to the south and Rookwood Cemetery to the northwest and west. A major electricity supply easement comprising large towers and wires, fencing and access trails occurs along much of the remnant.

Figure 1: Location of the Weeroona Road bushland remnant, shown by the enclosed red line. Image: Google earth 2016.



Ecological significance of the Weeroona Road remnant

The Weeroona Road remnant contains about 1.1 ha of Cooks River Castlereagh Ironbark Forest. This is listed as a Critically Endangered Ecological Community under the Federal Environment Protection and Biodiversity Conservation Act 1999 and as an Endangered Ecological Community

(EEC) under the NSW Threatened Species Conservation Act 1995. The vulnerable *Acacia pubescens* (Downy Wattle) and an endangered population of *Wahlenbergia multicaulis* (Tadgell's Bluebell) have been recently recorded in the remnant (OEH's Atlas of NSW Wildlife). Additional threatened plant species may also occur in the remnant.

The remnant provides important shrubland and low woodland habitat for 29 protected native and 4 introduced bird species (total of over 200 individual birds) including 13 species of local and regional conservation significance (InSight Ecology 2008, 2016). These are some of the last surviving bushland avifauna of inner-western Sydney (Plates 1-6). They persist essentially by default through the retention of dense *Kunzea ambigua* shrubland, *Melaleuca decora* woodland and isolated Broad-leaved Ironbark *Eucalyptus fibrosa*, with peach heath *Lissanthe strigosa*, pea flower shrubs such as *Daviesia ulicifolia* and *Pultenaea villosa* and some native grasses under the electricity lines. In parts of the remnant such as the eastern section these patches are fragmented and weed-infested and support acacia stands. The western section from Rookwood Cemetery south to the railway line provides the best habitat for small native birds. This is where two Eastern Yellow Robin were surprisingly recorded during the April 2016 survey (Plate 1). This species is a small ground foraging insectivore that has disappeared from much of the inner-west, being now confined to two bush remnants at Duck River, Granville and Wolli Creek. There was also evidence of White-browed Scrubwren and Superb Fairy-wren movement between habitat patches in the eastern section where the proposed re-zoning will occur and the western section.

Plate 1: Eastern Yellow Robin – an insectivore that has gone extinct from much of inner western Sydney as habitat has been lost and increased levels of predation suffered from currawongs, rats and cats (Iestyn Taylor).



Plate 2: Old *Kunzea ambigua* thicket with Melaleuca – the site of Eastern Yellow Robin records on 22 April 2016 (InSight Ecology)



Plate 3: Immature Golden Whistler in *Kunzea ambigua* and acacia shrubland in Weeroona Road remnant, 22 April 2016 (InSight Ecology)



Plate 4: Red-browed Finch – a small granivore recorded feeding on seeding grasses in a flock of 30 birds along the edge and within *Kunzea ambigua* shrubland at Weerona Road remnant, 22 & 28 April 2016 (InSight Ecology)



Plate 5: Female White-browed Scrubwren, recorded in a population of 4 birds that most likely bred in the Weerona Road remnant in spring 2015 (InSight Ecology)

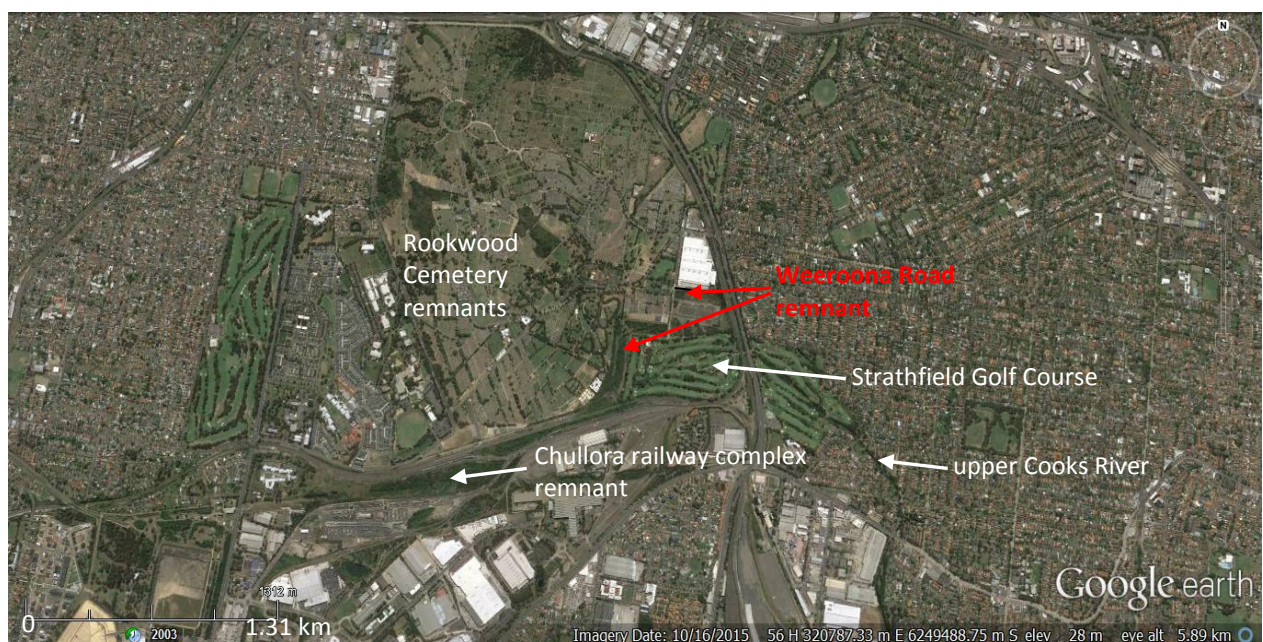


Plate 6: *Kunzia ambigua* dense shrubland under powerlines in the remnant – provides refuge and potential nest sites for birds such as Red-browed Finch, Eastern Yellow Robin and White-browed Scrubwren (InSight Ecology)



The Weerona Road remnant also provides an important local and sub-regional connection to other remaining fauna habitat in this part of Sydney, at Rookwood Cemetery, along the Chullora rail complex, and with upper Cooks River via Strathfield Golf Course (Figure 2). These links help facilitate movement of more dispersive species such as honeyeaters, cuckoos and Silvereye. In this sense, the Weeroona Road remnant functions as an important habitat stepping-stone in the local landscape, in addition to its value as habitat for resident fauna.

Figure 2: Weerona Road remnant showing habitat connectivity across the local landscape (Google earth 2016)



Potential impacts of the proposed re-zoning on biodiversity

There are a number of issues associated with the assessment of the potential impact of the proposed rezoning on the ecological values of the Weerona Road remnant and adjoining habitats. These are outlined below.

The implications and potential ecological consequences of re-zoning to general industrial land use are significant and long-term. Such a decision would provide the planning basis for future approval of projects that could cause further loss of habitat and fragmentation at both the site-scale, ie. loss of the remnant shrubland patches at the northern, eastern and southern areas of the site, and at the landscape scale. The inner-western Sydney landscape has experienced, over about 150 years, the cumulative loss and degradation of its woodland, forest and wetland habitats and extinction of many native fauna and flora species. Therefore, care is needed when interpreting the significance of a statement made in the planning proposal document of likely nil or minimal environmental impact of the re-zoning on the subject land – see, for example, the Question 8 response on page 18.

The "biodiversity study" was conducted over a very short and one-off timeframe (2.5 hours in October 2015) and under inclement (windy) conditions. This means that there was no replication of survey effort across subsequent breeding and non-breeding seasons. Nor did the work occur under optimal weather conditions when faunal activity was likely to be high, thus increasing the potential for detecting species, especially reptiles and amphibians.

Unfortunately and significantly, the survey did not consider the potential landscape and habitat connectivity effects of re-zoning for future industrial use on remnant protected (ie. not *only* listed as threatened) fauna and flora communities present at the site, in adjoining habitat such as closed *Kunzea ambigua* shrubland and *Melaleuca* woodland and in other parts of the district and region, e.g. remnant native vegetation at Rookwood and Chullora rail complex. An emphasis was thus placed on threatened species but this meant that the values, significance and current vulnerability and conservation management requirements of some of inner-western Sydney's last remaining small bushland bird communities has not been adequately understood or considered in the study.

The literature "review" was confined to a scan of NSW Wildlife Atlas BioNet data and existing site studies. This contained a range of grammatical and factual errors regarding the previous reports of InSight Ecology (2008 not, as cited by the consultant, 2009) and Ambrose Ecological Services (2009). Clearly, insufficient time was budgeted for this component of the work.

The proposed re-zoning will, in effect, place the southern part of the subject site at risk of future conversion into an industrial area. Currently, this area supports patches of acacia, hakea, kunzea, melaleuca and allocasuarina shrubland and truncated (by easement pruning) low woodland. These patches have the potential to function as habitat stepping stones allowing small populations of White-browed Scrub-wren, Superb Fairy-wren, Red-browed Finch, Golden Whistler and possibly Eastern Yellow Robin (and other bird species that have declined alarmingly across inner urban Sydney) to move and disperse between Weerona Road remnant and other remnants to the west/northwest including Chullora rail complex and Rookwood Cemetery, as well as east along the revegetated upper Cooks River. This functional role of Weeroona Road remnant is of high local and regional conservation significance in this part of

the highly fragmented Sydney urban landscape - something that the proposal and its biodiversity component does not adequately consider.

The planning document states that no Federal Department of the Environment (DoE) comment on the proposal has been received, despite attempts purportedly being made (see base page 17). Such consultation would be important to obtain their advice on adequate protection measures, both planning and on-the-ground, of threatened biodiversity such as the Cooks River Castlereagh Ironbark Forest EEC. To imply that because NSW-level (OEH) comment has been received and purportedly addressed in the amended planning proposal, then the concerns of DoE could also be considered to be addressed, is erroneous. DoE comment should thus be actively and expeditiously re-sought.

Recommendations

Some recommendations are put forward for consideration. These address the deficiencies of the planning document in assessing potential impacts over time of re-zoning for future industrial use on local and regional biodiversity.

- Undertake a systematic survey of fauna (birds, mammals, reptiles and amphibians) at the site, along the rest of Weeroona Road remnant and in adjoining habitat at Rookwood Cemetery and Chullora Rail Complex. This should be undertaken over two seasons - one breeding (spring/early summer) and non-breeding (autumn/early winter) season. The spring component could be undertaken as part of Strathfield Council's current 2016 fauna study;
- Adequately review all previous biodiversity survey work undertaken at and near the site including the current Strathfield fauna study, records available from BirdLife Australia and university/OEH projects;
- Re-define the boundaries of the proposed re-zoning area to exclude patches of existing Kunzea and acacia habitat on the northern, eastern and southern sides. That is, delimit the area to be re-zoned to the existing fenced electricity substation site;
- Work with Strathfield and Auburn Councils to revegetate and re-connect sections of Kunzea, acacia and allocasuarina habitat in these and adjoining parts of Weeroona Road remnant. This will require the formation of a local community-based Bushcare group and collaboration with existing Council bushcare teams. Potential exists for this collaboration in the upper Cooks River catchment.
- There is a need for the recognition of the ecological values and significance of Weeroona Road in the proposed IN1 zone. Also, options for properly protecting the remnant, in view of its local and regional (inner-western Sydney) biodiversity conservation significance, need to be investigated in the planning proposal. The application of an E2 Environmental Conservation or similar zone to the entire remnant is recommended.

References

Ambrose Ecological Services, 2009. Vertebrate Fauna Study for the Strathfield Local Government Area, report to Strathfield Municipal Council, 112 pp.

InSight Ecology, 2008. Bird Communities and Habitats in Strathfield Local Government Area, report to Strathfield Municipal Council, 84 pp.

InSight Ecology, 2016. Systematic Fauna Study of Strathfield Local Government Area. Report in prep. for Strathfield Council.

Sheridan Planning, 2015. Planning Proposal – Rezoning of Ausgrid Substation Site, 38-50 Weeroona Road Strathfield (Lot 1 DP 803688). Prepared by Sheridan Planning on behalf of Flemington Properties P/L, 23 pp.

Dr Andrew Huggett
InSight Ecology
24 May 2016.

APPENDIX 3

7. PLANNING AND DEVELOPMENT MATTERS

6. Planning Proposal for 38-50 Weeroona Road, Strathfield

220/16

RESOLVED: (McLucas/Datta)

1. That Council endorse the Planning Proposal to rezone 38-50 Weeroona Road, Strathfield (Lot 1 DP 803688) from SP2 Electricity Supply to IN1 General Industrial.
2. That Council exercise the delegation authorised by the Minister's delegate in the Gateway Determination to amend the Strathfield Local Environmental Plan 2012 in accordance with Section 59 of the Environmental Planning and Assessment Act 1979 (EP&A Act).
3. That the proponent and objectors be notified accordingly.

For the Motion: Councillors Ok, Bott, Datta and McLucas

Against the Motion: Nil.